

04-26-04
EXPRESS MAIL NUMBER

EV405281374US

1637

**RESPONSE TO RESTRICTION
REQUIREMENT**

Address to:
Commissioner for Patents
P.O. Box 1450
Arlington VA 22313-1450

| | |
|-------------------------------------|---------------------|
| Attorney Docket Confirmation No. | 10010069-1 |
| First Named Inventor | Steven M. Lefkowitz |
| Application Number | 10/032,608 |
| Filing Date | October 18, 2001 |
| Group Art Unit | 1637 |
| Examiner Name | Heather Calamita |
| Title | Chemical Arrays |

Dear Sir:

This communication is responsive to the office communication dated March 30, 2004.

In the above referenced office communication, the Examiner imposed a restriction requirement, requiring the election of the claims of either:

Group I, i.e., Claims 1-43;

Group II, i.e., Claims 44-55; or

Group III, i.e., Claim 56;

for further prosecution in this application.

The Applicants hereby elect Group I **with traverse**.

The Applicants also respectfully urge the Examiner to rejoin the claims of Groups II and III with the elected claims of Group I for examination in this application for the following reasons.

The MPEP allows an Examiner to examine otherwise patentably distinct sets of claims if to so would not impose an undue burden on the Examiner. M.P.E.P. § 8.03 states that:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

In the present case, the claims of Groups II and III include all of the elements found in the claims of Group I. As such, the search for the claims of Group I will find any relevant prior art relating to the claims of Groups II and III.

Accordingly, little, if any, additional searching should be required for the claims of Groups II and III, and therefore the examination of the claims of Groups II and III together with the claims of elected Group I should impose little, if any, additional burden on the Examiner.

As such, examining the claims of Groups II and III and the claims of elected Group I together in the present application clearly does not impose an undue or serious burden on the Examiner. In the absence of such an undue or serious burden, the Examiner is clearly instructed by the MPEP to examine the entire application. Therefore, the Examiner is respectfully requested to rejoin the claims of Groups II and III with the claims of elected Group I and to examine all the claims together in the present application.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-1078.

Respectfully submitted,

BOZICEVIC, FIELD & FRANCIS LLP

Date: April 23, 2004

By: _____


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PATENT APPLICATION

ATTORNEY DOCKET NO. 10010069-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Steven M. Lefkowitz

Serial No.: 10/032,608

Filing Date: 10/18/2001

Title: CHEMICAL ARRAYS



Examiner: Heather Calamita

Group Art Unit: 1637

COMMISSIONER FOR PATENTS
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER FOR RESPONSE/AMENDMENT

Sir:

Transmitted herewith is/are the following in the above-identified application:

- (X) Response/Amendment () Petition to extend time to respond
() New fee as calculated below () Supplemental Declaration
(X) No additional fee (Address envelope to "Mail stop Non-Fee Amendments")
(X) Other: Postcard (fee \$ _____)

| CLAIMS AS AMENDED BY OTHER THAN A SMALL ENTITY | | | | | | |
|--|--|------------------------|--|-------------------------|-------------|---------------------------|
| (1) FOR | (2) CLAIMS REMAINING AFTER AMENDMENT | (3) NUMBER EXTRA | (4) HIGHEST NUMBER PREVIOUSLY PAID FOR | (5) PRESENT EXTRA | (6) RATE | (7) ADDITIONAL FEES |
| TOTAL CLAIMS | | MINUS | | = 0 | X \$18 | \$ 0 |
| INDEP. CLAIMS | | MINUS | | = 0 | X \$86 | \$ 0 |
| [] FIRST PRESENTATION OF A MULTIPLE DEPENDENT CLAIM | | | | | + \$290 | \$ 0 |
| EXTENSION FEE | 1ST MONTH \$110.00 | 2ND MONTH \$420.00 | 3RD MONTH \$950.00 | 4TH MONTH \$1480.00 | | \$ 0 |
| OTHER FEES | | | | | | \$ |
| TOTAL ADDITIONAL FEE FOR THIS AMENDMENT | | | | | | \$ 0 |

Charge \$ 0 to Deposit Account 50-1078. At any time during the pendency of this application, please charge any fees required or credit any overpayment to Deposit Account 50-1078 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 50-1078 under 37 CFR 1.16, 1.17, 1.19, 1.20 and 1.21.

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Date of Deposit 04-23-2004

I hereby certify that this is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

By

Typed Name: Donna Macedo

Respectfully submitted,

Steven M. Lefkowitz

By

Bret Field for Gordon Stewart

Attorney/Agent for Applicant(s)

Reg. No. 37,620

Date: 04-23-2004